SCR.A/502/2005 1/4 JUDGMENT

Scr.a502/2005 13.7.2005 1

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 502 of 2005
with
SPECIAL CRIMINAL APPLICATION NO. 648 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SMT. USHABEN KUNDANLAL DAVE & 2 - Applicant(s)

Versus

THE STATE OF GUJARAT & 6 - Respondent(s)

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Appearance :

MR NL RAMNANI for Petitioner No(s).: 1,2,3.

PUBLIC PROSECUTOR for Respondent No(s).: 1.
NOTICE SERVED BY DS for Respondent No(s).: 2, 3, 4, 5,6.
NOTICE NOT RECD BACK for Respondent No(s).: 7.
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CORAM :HON'BLE MR.JUSTICE JAYANT PATEL

Date : 13/07/2005

ORAL (COMMON) JUDGMENT

1.Rule. Mr.Gohil, Ld.APP waives service of rule on

behalf of respondent State.

2. The Spl.Criminal Application No.502/05 is preferred by the petitioner for directing the respondents to investigate properly and lawfully into the various complaints filed, copies whereof are at annexures A, H, I and J, whereas Spl.Criminal Application No.648/05 is preferred for the same relief pertaining to the complaint at annexure “A”.

3. Heard Mr.Ramnani, Ld.advocate for the petitioners and Mr.Gohil, Ld.APP for respondent-State.

4. Mr.Gohil, Ld.APP for the respondent-State, at the outset, declared before this court that in connection with the complaint vide FIR No.8/05 the charge sheet is filed on 12.7.05 in the trial court and he further submitted that in connection with complaints, vide CR No.243/04 of Bhuj City Police Station, CR No.370/04 of Bhuj Taluka Police Station and CR No.8/05 of Gandhidham Police Station which includes the matter in which the charge sheet is already filed the investigation is entrusted to CID(Crime) and he places on record the copy of the order passed by the Dy.IG, Gujarat State for entrustment of inquiry in connection with the aforesaid complaints filed against the office bearers of Venus Life Marketing India Ltd for cheating, breach of trust etc.

5. As such, when the investigation is entrusted to CID(Crime) by the Dy.IG of the State, the same, primafacie, can be said proper mode adopted by the police authorities for investigation in connection with the complaints which are filed. However, it also appears that there are other complaints against

office bearers of Venus Life Marketing India Ltd which are not referred to in the order passed by the Dy.IG, Gujarat for entrusting the investigation to CID(Crime).

6. Considering the facts and circumstances, it appears that if the investigation pertaining to the complaints which are left out including the complaint referred to by the petitioner but filed against Venus Life Marketing India Ltd by the depositors or the agents, as the case may be, is also entrusted and undertaken by the CID(Crime), the same would be in the interest of justice because, as such, the nature of crime is same, but as there are different depositors and persons interested, various complaints are filed and, if the investigation is conducted by one agency, the same would not only facilitate the investigation, but it would also enable the investigating agency to have proper probe and inquiry into the alleged accusations.

7. Under the circumstances, it is hereby observed and directed that all the complaints pertaining to alleged offences of cheating and breach of trust filed against Venus Life Marketing India Ltd, in Kutch District, be entrusted to CID(Crime) for investigation and the Director General of Police, Gujarat shall pass formal order, if required, for entrusting the inquiry within a period of 15 days from the date of receipt of this order.

8. It is needless to state that the investigation shall be carried out in accordance with law and proper action shall be taken, as may be required, at the conclusion of the investigation.

9. Both the petitions are allowed to the aforesaid extent and rule in each petition is partly made absolute.

Office to give copy of this order to Mr.Gohil, Ld.APP for compliance.

(JAYANT PATEL,J)

13/7/05/murty